

## Standing Orders for the Regulation of Contracts

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Note: The term 'supplies and services' encompasses all purchases including premises, appliances, equipment of all types, uniform and protective clothing, consumables and any services brought in from an external supplier.

## 1 Introduction

- 1.1 The Chief Fire Officer or nominated officer, the Treasurer and Clerk to the Authority are empowered to enter into contracts on behalf of the Hereford and Worcester Combined Fire Authority subject to these Standing Orders.
- 1.2 All contracts will be in the name of the Fire Authority.
- 1.3 The objective of these Standing Orders is to ensure that contracts for the supply and disposal of goods, materials and services or for the execution of works are obtained on the most favourable terms, having due regard to quality, service, and fitness for purpose. All supplies and services meet the Brigade's requirements and are procured in accordance with the principles of best value.
- 1.4 Consider collaborations with other Brigades/Services in preparing specifications.
- 1.5 Complete any investigations and/or risk assessments necessary to discharge the Brigade's duties under the Provision and Use of Work Equipment regulations 1998.
- 1.6 European Economic Community directives must be followed where appropriate.
- 1.7 In relation to "Works Contracts" and "Functional Work" as defined in the Local Government Act 1988 and all other enactments, the additional provisions of that Act must be observed, together with the requirements of the Financial Regulations.
- 1.8 Terms: In this part of the Standing Orders:-
- A TENDER:** means a written offer to supply goods, materials and services.
- A CONTRACT:** means any contract in writing or otherwise for the supply or disposal of goods, materials or services or for the execution of works but shall exclude contracts of employment.
- NEGOTIATION:** means any alteration in the terms of the tender offered to the Fire Authority or in the requirements of the Fire Authority in relation to such tender and shall include any variation in the terms of a tender whether by deletion of any requirement or provision or the rectification of any error or omission.
- THE CONTRACTS REGISTER:** means the register held by the Chief Fire Officer/Chief Executive containing records of action taken under these Standing Orders including reasons for action under Standing Order No. 5.

**THE REGISTER OF APPROVED CONTRACTORS:** means a register compiled by the Chief Fire Officer, reviewed annually, of selected contractors and suppliers who can prove themselves capable and suitable to carry out specified working or supply specified goods or services.

**THE MOST FINANCIALLY FAVOURABLE:** means the lowest if payment is made by the Fire Authority and the highest if payment is made to the Fire Authority.

The authority will be able to demonstrate that all options for the procurement of supplies and services, including collaboration with other Brigade's, Local Authority Departments, consortia and the Private Sector and these arrangements will be reviewed regularly. Consideration will be given to maintenance arrangements prior to the purchase of supplies and services (wholelife).

## 2 Tenders

2.1 Tenders will be required, except in respect of Standing Order No. 5 "Exceptions to the Procedures", where:

- (a) in the case of a contract for the execution of building or civil engineering works the value exceeds £100,000.
- (b) in the case of any other contract for the supply of goods, materials and services the value exceeds £50,000 in any financial year.

2.2 Tenders will be invited by:-

- (a) Open Competitive Tendering (SO 6)
- (b) Selective Tendering by Advertisement (SO 7)
- (c) Selective Tendering from Approved Contractors (SO 7)

## 3 Term Contracts

These tendering procedures shall apply to contracts for the supply of goods, materials or services where the amount payable or receivable per annum may reasonably be expected to exceed £50,000. These contracts shall be subject to retendering at not more than three yearly intervals.

## 4 Contracts Below the Thresholds

Where contracts below the figures referred to in Standing Order 2.1 (a) and (b) are considered, the spirit of tendering shall be followed and wherever practicable at least three competitive quotations shall be obtained.

## 5 Exceptions to the Procedures

- 5.1 A contract may be entered into on behalf of the Fire Authority other than in accordance with Standing Orders No.2 or 3 in the following circumstances:
- (a) For the supply of goods, material or services where there appears to be only one supplier and no acceptable alternative.
  - (b) Where the supply of goods, materials or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one source of supply appropriate.
  - (c) For the urgent supply of goods, materials or services where the Chief Fire Officer is satisfied that the tender process would not meet the time scale required.
  - (d) For the supply of used or second-hand goods or materials where the Chief Fire Officer is satisfied that the market for such goods or materials demonstrate good value and is such that it would be unreasonable to tender or where the time required to tender would lead to loss of opportunity to purchase a used or second-hand item.
  - (e) For the supply of goods, materials or services in any other circumstances where the Chief Fire Officer is satisfied that there are proper service reasons for not tendering and that there would be no financial disadvantage to the Fire Authority as a result.
  - (f) Where the contract is awarded through a Consortium of which the Fire Authority is a member or which the Chief Fire Officer has resolved to use, bearing in mind the need to be satisfied that the contract(s) is properly awarded and good value obtained.
  - (g) Where the Fire Authority considers that there are special circumstances justifying the waiving of Standing Orders and authorises such waiver by resolution.
  - (h) Where any vehicle or other equipment is obtained through a Framework Agreement negotiated by the Home Office with vehicle and other suppliers.
- 5.2 All contracts let in accordance with Standing Order No 5.1 (a-h) shall be recorded in the Contracts Register together with reason and explanations.

## 6 Open Tendering

A public notice inviting tenders must be placed in at least one local newspaper saying what the contract is for and specifying a return date of at least 14 days together with any other information necessary to ensure compliance with these Standing Orders.

The advertisement must also appear in at least one relevant trade newspaper or journal.

## 7 Selective Tendering

- 7.1 The Chief Fire Officer, the Treasurer and Clerk to the Authority may compile a Register of Approved Contractors who in their judgement are capable of tendering for and carrying out works or providing goods, material or services that may be required from time to time.
- 7.2 The Register of Approved Contractors will be compiled following an advertisement which must appear in a local newspaper and a relevant trade journal or newspaper. The invitation to apply for inclusion in the register must identify the types, categories and value of contract and ask for the names of contractors interested in being included by a specified date.
- 7.3 The Register of Approved Contractors compiled under 7.1 and 7.2 shall show the type and value of contract for which the contractor is listed and shall be open for inspection by any member of the Fire Authority on request, following approval by the Chief Fire Officer or nominated officer.
- 7.4 The Chief Fire Officer or nominated officer may suspend a contractor from the Register of Approved Contractors if the contractor fails to meet contractual obligations or proves unsatisfactory in any other way. Any suspensions will be reported to the next appropriate Combined Fire Authority meeting.
- 7.5 Where invitations to tender are to be made by reference to the Register at least three contractors on the Register of Approved Contractors who are appropriate to the type and value of the work must be invited to tender.
- 7.6 The Register of Approved Contractors must be reviewed at least every three years. At least four weeks before the review notices inviting applications for inclusion in the Register shall be published in at least one local newspaper and at least one relevant trade newspaper or journal. Additions and deletions to the Register may be made between reviews.

## 8 Submitting and Opening Tenders

- 8.1 The Chief Fire Officer or delegated Principal Officer will prepare appropriate specifications for work, goods or services and consult with the Brigade Procurement Officer as to the method of tender required and the appropriate process to ensure best value.
- 8.2 The Procurement Officer will ensure that all actions conform with Standing Orders in respect of tendering procedures.
- 8.3 The acceptance of tenders will follow advice from the Brigade's legal advisers.
- 8.4 Every invitation to tender must state that a tender will only be considered if it is received by the due date and time in a sealed, plain envelope with the word "Tender" and the title of the contract written on it to the address specified. There must be no mention of the sender's name or other identifying mark on the envelope. The invitation to tender must state that the Fire Authority do not bind themselves to accept the lowest or the highest in respect of income of any tender. The Chief Fire Officer or nominated officer must keep the envelopes unopened and secure until the time for receipt has expired.
- 8.5 All tenders shall be opened together after the expiration of the time for tendering by the Chief Fire Officer or nominated officer in the presence of another appointed officer.
- 8.6 The Clerk to the Fire Authority or nominated officer in consultation with legal advisors may at his or her absolute discretion permit consideration of a tender submitted other than in accordance with Standing Order 8.4 provided:
- (a) they are satisfied that it is in the best financial interests of the Fire Authority to do so.
  - (b) they are satisfied that the tenderer has not secured an advantage over other tenderers by failing to tender in accordance with Standing Order 8.4.
  - (c) and that the decision to admit the tender is taken before the remaining tenders are opened. A record of these tenders and the discretion exercised under Standing Order 8.6 must be kept in the Contracts Register.

## 9 Accepting Tenders

- 9.1 The Chief Fire Officer or nominated officer shall be empowered to accept the most favourable tender received.
- 9.2 In exercising the powers contained in Standing Order 9.1 the Chief Fire Officer or nominated officer may negotiate (Standing Order 1.6) with the tenderer submitting the most favourable tender to obtain improvements in terms of price, delivery or content unless the revenue budget or capital programme are exceeded or the Chief Fire Officer or nominated officer consider that other special circumstances exist, in which case all those persons who originally submitted a tender for the contract shall be given an opportunity to retender.
- 9.3 The Chief Fire Officer or nominated officer may approve the amendment of a tender after it has been received and opened before it has been accepted only in the following circumstances:
- (a) To enable the correction of a genuine error.
  - (b) To make an alteration to the advantage of the Fire Authority provided that the alteration if made to all the tenders would not make any other tender the most financially favourable. A record of any alteration to a tender must be kept in the Contracts Register.
- 9.4 The Chief Fire Officer or nominated officer may accept other than the lowest/highest tender where:
- (a) There is a material improvement in specification in contrast to the lowest tender and where either the spending department specifies the goods, materials or services with a higher specification or where the Chief Fire Officer is of the opinion that by virtue of specification a tender other than the lowest tender represents the best value for money and should be deemed the most favourable.
  - (b) The goods, materials or services are not available for immediate supply and where in the opinion of the Chief Fire Officer or nominated officer by reason of non availability another tender might reasonably be regarded as the most favourable tender. All actions taken under this Standing Order shall be recorded in the Contracts Register.
- 9.5 These discretions will only be exercised by the Chief Fire Officer or nominated officer, if they have not been responsible for the preparation of the specification or the tendering process.

## 10 The Contracts Register.

The Contracts Register shall be maintained by the Clerk to the Fire Authority or nominated officer and shall contain a record of any action, statements of reasons and exceptions under Contract Standing Orders 5, 8 and 9.

## **11 The Form of Contracts**

- 11.1 Every contract shall be made or confirmed in writing and signed personally by the Chief Fire Officer or nominated officer on behalf of the Fire Authority.
- 11.2 Every contract shall specify the materials, items to be supplied, the work to be carried out and the price to be paid together with a statement as to the amount of any discount or other deduction. In addition the period within which the contract is to be completed must be stated together with such other conditions and terms as may be agreed between the parties.

## **12 Cancellation of Contracts**

- 12.1 Every contract must state that the Fire Authority can cancel the contract and recover any resulting losses if the contractor or his/her employees or agents with or without his/her knowledge:
- (a) does anything improper to influence the Fire Authority to award or in the execution of the contract or any other contract.
  - (b) commits an offence under the Prevention of Corruption Act 1906 to 1916 or Section 117(2) of the Local Government Act 1972.

## **13 Compliance with Standing Orders**

- 13.1 It is an explicit condition of employment of all staff of the Fire Authority with responsibility for the administration of contracts that they should at all times observe the provisions of these Standing Orders for Contracts. Failure to do so may result in disciplinary action being taken.
- 13.2 When outside consultants or technical officers are employed to supervise contracts they must similarly follow Standing Orders for Contracts.
- 13.3 Contracts for all personnel will contain details as outlined in Standing Orders 13.1 and 13.2.

## **14 Prohibition upon Assignment or Sub-Letting**

Each written contract for the supply of goods or materials or for the execution of work or the provision of services whether to be supplied or executed at any one time or over a specified or other period shall contain a clause prohibiting the contractor from transferring or assigning, directly or indirectly to any persons whatsoever, any portion of the contract without the prior written permission given for or on behalf of the Authority by the nominated officer or some other duly authorised person or from sub-letting any portion of the contract other than that which may be customary in the trade concerned.

## 15 Financial Limits

The financial limits in these Standing Orders will be reviewed periodically by the Chief Fire Officer or nominated officer in conjunction with the Treasurer to the Fire Authority.

## 16 Code of Purchasing Practice

16.1 This Code of Purchasing Practice must be adopted in relation to the purchase of goods, materials and services having regard at all times to these Standing Orders for the regulation of Contracts.

16.2 The Code is to ensure that every effort is made by staff responsible for devolved budgets to obtain value for money when purchasing goods, materials or services.

16.3 Written specifications must be prepared for the procurement officer where appropriate by the purchasing department, sufficiently detailed to enable a comprehensive offer to tender to be made.

16.4 The use of purchasing Consortia should be made where possible to ensure the lowest prices are obtained through bulk contracts.

16.5 If goods, materials or services do not appear to be available through any of the Consortia available to the brigade one of the following courses of action should be followed:

(a) Where the estimated total annual value is less than £50,000.

If the value of the business to be contracted is likely to be less than £50,000 over a 12 month period, ordering officers should deal direct with suitable suppliers obtaining competitive quotations in accordance with Standing Order 4.

(b) Where the estimated total annual value is more than £50,000.

Ordering officers in conjunction with the Procurement Officer must seek guidance and assistance from appropriate purchasing consortia and/or proceed in accordance with Standing Orders for Contracts 5,6,7,8,9 and 11.

16.6 Examples of Purchasing Consortia available at the time of producing this code are:-

- West Mercia Supplies.
- The Wiltshire Consortium.
- West Mercia Police Consortium

Any Chief and Assistant Chief Fire Officers Association or Fire Brigade Consortium or collaborative arrangement.